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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,109	02/18/2004	Michael F. Kneese	4346P2767	1960
23504	7590	10/18/2005		
WEISS & MOY PC 4204 NORTH BROWN AVENUE SCOTTSDALE, AZ 85251			EXAMINER HUYNH, KHOA D	
			ART UNIT	PAPER NUMBER
			3751	
DATE MAILED: 10/18/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/781,109

Applicant(s)

KNEESE ET AL.

Examiner

Khoa D. Huynh

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: the recitation "at lest one tissue" provides a misleading interpretation that the device may include more than one tissue. It is recommended that the recitation "at least one tissue" should be changed to read --a tissue-- so as to be consistent with applicant's disclosure of "a tissue 12".

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1 and 5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Each of the claims contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 calls for a tissue being biodegradable, semi-porous, flat, buoyant, and rigid so as to be able to remain buoyant after receiving one of the urine and fecal matter of a child. However, applicant, in the instant specification, fails to disclose what kind of material used to make a tissue that is being biodegradable, semi-porous, flat, buoyant, and rigid so as to be able to remain buoyant after receiving one of the urine and fecal matter of a user. The instant specification also does not describe the detailed structure

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of the claimed tissue, i.e. the structure embed in the tissue to allow it to float and remain floating after being biodegradable, semi-porous, flat, buoyant, and rigid so as to be able to remain buoyant after receiving the urine and/or the fecal matter. The instant specification also does not describe how the tissue was formed or manufactured to provide the rigidity as claimed, i.e. a single layer with coating material or multiple layers. In short, applicant, in the instant disclosure, fails to describe the claimed subject matter presented in claim 1 in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 15, the method claim, suffers similar deficiency.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2, 3 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what structural limitations the "eight pound tissue" and the "ten pound tissue" encompass. Such language does not have any clear explanation or definition in the instant disclosure, and therefore, make it difficult to ascertain the scope of the claimed invention.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 1, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Whitacre (6081937).

The Whitacre reference discloses a device (10) for placing inside a toilet bowl and for receiving a stream of liquid such as urine. The device (10) is capable of floating, liquid permeable or semi-porous, sturdy, substantially flat and biodegradable (col. 3, lines 8-11, lines 30-33; col. 4, lines 37-59). The Whitacre reference also discloses that the device will float even after absorbing an amount of liquid, i.e. water and/or urine (col. 2, lines 20-26; col. 4, line 50-59).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2-6, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitacre (6081937) in view of Kreiss (4044405).

Regarding claim 4, the Whitacre reference DIFFERS in that it does not specifically include a design to encourage aiming as claimed. Attention, however, is directed to the Kreiss reference which discloses a device for placing inside a toilet bowl and for receiving a stream of liquid such as urine. The device (12) includes a design (15) to encourage a user, i.e. a child to deposit urine

and/or fecal matter on the device. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Whitacre reference by employing a design, in view of the teaching of Kreiss, in order to encourage the user to direct his/her waster into the proper receptacle.

Regarding claim 5, the method as claimed would be inherent during the normal use and operation of the modified Whitacre device.

Regarding claims 2, 3 and 6, the Whitacre reference also DIFFERS in that it does not specifically include that the tissue being between approximately 8 pound tissue and 10 pound tissue as claimed. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the tissue between approximately 8 pound tissue and 10 pound tissue since discovering an optimum range for such weight of a tissue involves only routine experiment or trial and error for one of skill in the art especially since the Whitacre reference also discloses that the device is formed from paper having a consistency, liquid-permeability, strength, weight and rigidity (col. 3, lines 50-58).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Markham, Charles W. was cited to show a device for placing inside a toilet bowl and for receiving a stream of liquid such as urine. The device is capable of floating, liquid permeable or semi-porous, sturdy, substantially flat and biodegradable. Lauer, White, Jr. et al. and Camarena were cited to show a target device for use in a flushable toilet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa D. Huynh
Primary Examiner
Art Unit 3751

HK
10/15/05